IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 47 of 2005 (S/B)

Col. A.K. Jha (Retd.),
Ex-Senior Commandant C.I.S.F.,
S/o Late S.K. Jha,
C/o Smt. Savitri Jha,
Principal Govt. Girls Inter College,
Sitarganj, District Udham Singh Nagar. ……. Petitioner

Versus

1. Union of India,
through its Secretary,
Ministry of Home Affairs,
Govt. of India, South Block,
New Delhi.
2. The Inspector General, C.I.S.F.,
North Sector, C.I.S.F. Campus,
Saket, New Delhi.
3. The D.I.G. C.I.S.F., North Zone,
H.Q. C.I.S.F. Campus,
Saket, New Delhi. ……. Respondents

Mr. Rajeev Bisht, Advocate for the petitioner.

Coram: Hon. Cyriac Joseph, C.J.
Hon. P.C. Verma, J.

ORAL JUDGMENT: (Per Hon'ble the Chief Justice)

1. The petitioner seeks a direction to the respondents to release the arrear amounting to Rs. 81,000/- to the petitioner on account of ignoring Rs. 1,500/- instead of Rs. 500/- from 01.01.1996 to 31.09.2002 i.e. from the date of Vth Pay Commission recommendation to the date of exercising the option certificate by the petitioner. The above benefit was denied to the petitioner on the ground that he had not exercised option in time. However, on the basis of representation submitted by the petitioner, he has been given the benefit from the date of submitting the option. Only arrears were denied to him. The question is whether the respondents can be blamed for not granting the benefit to the petitioner during the period when he had not exercised option. Though the petitioner admits that he had not exercised option in time, his explanation is that the

respondents did not give him any proper reply to the clarification sought by him with regard to the benefits of exercising option.

2. In our view, when the petitioner was obliged to submit option within a stipulated period, he was bound to do so if he wanted the benefits. He could not have refused to submit option under the pretext that he was not aware of the benefits of exercising option. It was his responsibility to find out whether exercise of option was to his advantage or not. Annexure 1 produced along with the supplementary affidavit shows that the petitioner was directed by the office of Deputy Inspector General, North Zone, Central Industrial Security Force to furnish the option form for fixation of pay on re-employment in Central Industrial Security Force, but he refused to furnish the option form which was handed over to him when he visited the head quarter during the month of September, 2000. It is also stated in Annexure 1 that two reminders dated 26.09.2000 and 17.10.2000 were issued to the petitioner, but no reply was received from him.

3. In such circumstances, we do not find any merit in the writ petition. Writ petition is dismissed.

(P.C. Verma, J.) **(Cyriac Joseph, C.J.)**
19.04.2005 **19.04.2005**

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